

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Justin Mitchell	Team: Team # 8	CCRB Case #: 200712972	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/31/2007 11:55 AM, Saturday, 09/01/2007	Location of Incident: 7th Avenue between West 17th and West 18th Street	Precinct: 13	18 Mo. SOL 2/28/2009	EO SOL 2/28/2009	
Date/Time CV Reported Sat, 09/01/2007 2:15 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/06/2007 11:04 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM William Glynn	30676	932718	PBMS AC
2. POM Michael Murray	23688	928837	PBMS AC

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Murray	Abuse: PO Michael Murray stopped the car in which § 87(2)(b) was an occupant.	
B.POM William Glynn	Abuse: PO William Glynn stopped the car in which § 87(2)(b) was an occupant.	
C.POM Michael Murray	Abuse: PO Michael Murray frisked § 87(2)(b)	
D.POM William Glynn	Abuse: PO William Glynn frisked § 87(2)(b)	
E.POM William Glynn	Abuse: PO William Glynn searched § 87(2)(b)	
F.POM Michael Murray	Abuse: PO Michael Murray searched § 87(2)(b)	
G.POM Michael Murray	Abuse: PO Michael Murray questioned § 87(2)(b)	
H.POM William Glynn	Abuse: PO William Glynn questioned § 87(2)(b)	
I.POM William Glynn	Abuse: PO William Glynn threatened to arrest § 87(2)(b)	
J.POM Michael Murray	Abuse: PO Michael Murray searched the car in which § 87(2)(b) was an occupant.	
K.POM William Glynn	Abuse: PO William Glynn threatened § 87(2)(b) with the use of force.	
L.POM William Glynn	Force: PO William Glynn used physical force against § 87(2)(b)	

Synopsis

On September 1, 2007 at approximately 12:00 AM in the vicinity of 7th Avenue and 17th Street in Manhattan, § 87(2)(b) was pulled over by PO William Glynn and PO Michael Murray of Patrol Borough Manhattan South Anticrime for expired registration. The officers approached § 87(2)(b)'s vehicle and asked him to step out (Allegations A and B). § 87(2)(b) refused at first, but after several requests voluntarily exited the vehicle. PO Murray and PO Glynn then frisked and searched § 87(2)(b) and asked him if he had weapons or drugs (Allegations C – H). PO Glynn then escorted § 87(2)(b) to the back of his truck. § 87(2)(b) became upset and began cursing at the officers. PO Glynn told him that he could be arrested for disorderly conduct, but § 87(2)(b) continued making a scene (Allegation I). PO Murray then conducted a search of § 87(2)(b)'s vehicle. (Allegation J) After PO Murray discovered a pair of boxing gloves in the back of § 87(2)(b)'s car, PO Glynn told him, “You’re a big guy, but I can still kick your ass” (Allegation K). § 87(2)(b) told PO Glynn that he wouldn’t do a “motherfucking thing to him.” PO Glynn then placed § 87(2)(b) into the patrol car and allegedly slapped him across the face (Allegation L). After PO Murray finished conducting a search of the car, the officers issued § 87(2)(b) summonses for § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is a 6'3, 250 lbs. black male. § 87(2)(b) He currently resides in § 87(2)(b). On September 4, 2007 he filed his complaint with IAB (encl. 2a-2b). The case was received by CCRB on September 6, 2007. On October 3, 2007 § 87(2)(b) provided the following sworn statement (encl. 6a-6d).

On September 1, 2007 at approximately 12:00 AM, § 87(2)(b) was driving his white Chevy Tahoe truck north on 7th Avenue in Manhattan when officers in an unmarked Crown Victoria, either black or blue, flashed their sirens and signaled for him to pull over. § 87(2)(b) pulled over on 7th Avenue between West 17th street and West 18th Street. Two officers identified through investigation as PO William Glynn and PO James Murray approached his car. PO Murray approached § 87(2)(b)'s driver's side and PO Glynn approached § 87(2)(b)'s passenger side (Allegations A & B). § 87(2)(b) stated that PO Murray was a white male with red hair and a goatee wearing beige shorts and a beige shirt and PO Glynn was a clean-shaven white male with black hair wearing a baseball shirt and denim shorts. Both officers were no taller than 5'11.

Before the officers could make it to the car, § 87(2)(b) already had his license and other paperwork ready. He handed it to PO Murray and told him that he was picking the car up from Queens and that the registration had just recently expired. PO Murray checked § 87(2)(b)'s information. When PO Murray returned to § 87(2)(b)'s car he asked him to step out so that he could talk to him. § 87(2)(b) told him that if he just wanted to talk there was no need for him to get out of the car. At this time PO Glynn came around from the passenger side and told § 87(2)(b) "We're not going to ask you again." PO Glynn then

attempted to reach inside the car for the latch to open § 87(2)(b)'s door. § 87(2)(b) decided that rather than allowing the situation to escalate he should get out of the car. He then exited the vehicle voluntarily.

When § 87(2)(b) got out of the car PO Glynn grabbed him by the shoulder, pushed him up against his truck, and turned him around. PO Glynn and PO Murray then began searching and frisking § 87(2)(b) (Allegations C – F). They patted § 87(2)(b)'s upper body, legs, and groin. They also “went through” all of his pockets. § 87(2)(b) could not say who did what exactly, because his back was turned. He was handcuffed at this time, but he was not sure by whom. One of the officers took his car keys out of his pockets. The officers then asked § 87(2)(b) if he had any drugs on him. § 87(2)(b) told them “No, not every black man sells drugs.” The officers then asked if they could search § 87(2)(b)'s car (Allegations G & H). He told them no. PO Glynn told § 87(2)(b) “We’ll lock you up for disorderly conduct. You’ll spend the night in Central Booking” (Allegation I). § 87(2)(b) told PO Glynn, “Send me to Central Booking then.” The officers told him to go to the back of his truck. § 87(2)(b) told them no because he didn’t want them going through his truck. PO Glynn then took him to the curb. He told § 87(2)(b) to sit on the curb. § 87(2)(b) told him no because he felt such a thing would be humiliating.

While he was sitting on the curb an elderly white female approached the scene and asked § 87(2)(b) if he was ok. He told her that he was not ok and that he had been pulled over for no reason and subjected to a search. PO Glynn told the woman “Get out of here.” There were also two black males standing on a nearby wall observing the incident. PO Murray proceeded to search § 87(2)(b)'s car (Allegation J). § 87(2)(b)'s car has three rows of seats. PO Murray searched all three rows and opened the glove compartment. § 87(2)(b) told them that they had no right to stop him and search his car.

PO Murray came around and opened the back of the truck where he found a gym bag with boxing equipment. PO Glynn asked § 87(2)(b) if he boxed. § 87(2)(b) told him “something like that.” PO Glynn then told § 87(2)(b) “Well I can still kick your ass” (Allegation K). § 87(2)(b) told PO Glynn “You’re not going to do a motherfucking thing to me.” PO Glynn then picked § 87(2)(b) up off of the curb and put him in the back passenger seat of the unmarked car. PO Glynn then sat in the front passenger seat. PO Glynn turned around and smacked § 87(2)(b) with his right hand on the left side of § 87(2)(b)'s face under his eye (Allegation L). § 87(2)(b) had noticeable swelling and redness as a result of the slap. Meanwhile, PO Murray continued searching § 87(2)(b)'s car.

After PO Murray was finished searching § 87(2)(b)'s vehicle he came to let § 87(2)(b) out of the police vehicle. He asked § 87(2)(b) “If I take the handcuffs off are you going to do anything?” § 87(2)(b) told him “I should be afraid of you.” PO Murray told § 87(2)(b) “You should be thankful you’re not getting a ticket.” § 87(2)(b) told him to write him a ticket so that he could have their badge numbers and names. The officers then put § 87(2)(b) back into the police car. The officers apparently did not have any summonses. The officers placed a call and a few minutes later a blue and white police van pulled up next to the vehicle. An unidentified officer exited the van and gave both officers summonses.

The officers did not appear to know how to fill out the summonses properly so they had to make other radio calls and confer with each other to figure this out. § 87(2)(b) watched both officers fill out the summonses. When they finished, PO Murray took § 87(2)(b) out of the car and issued him the summonses, one for disorderly conduct and another for driving with expired registration. § 87(2)(b) asked him who wrote which summons. PO Murray answered and gave him his license and other documentation. § 87(2)(b) asked him to wait while he made sure all of his documentation was there and in tact. PO Murray waited while he checked then got back into his vehicle and drove away.

Results of Investigation

PO Michael Murray

On January 30, 2008 PO Michael Murray gave the following statement at the CCRB (encl. 7a-7f). PO Murray is a § 87(2)(b)-old, 5'10, 200-pound, white male with brown hair and blue eyes. He is assigned to Manhattan South Anti Crime. PO Murray's memo book entry for the incident described below lists two summons numbers and states: § 87(2)(b) extremely hostile, noncompliant. Screaming numerous profanities/racial slurs at MOS. Examples: 'Fuck you, I hate you because you're white. I hate cops. I hate white cops'" PO Murray's memo book also states that he was at the scene with § 87(2)(b) for 30 minutes. PO Murray issued § 87(2)(b) a summons for § 87(2)(b) (encl. 9a). § 87(2)(b)

On September 1, 2007 at approximately 12:00 AM in the vicinity of West 17th Street and West 18th Street, PO Murray and his partner, PO William Glynn, both of Manhattan South Anti-Crime, were doing patrol in a black unmarked Ford and running license plates randomly on their vehicle's computer. A license plate they ran came up with expired registration. The vehicle was an SUV that belonged to § 87(2)(b). The officers decided to do a car stop and pulled § 87(2)(b) over. PO Murray approached the driver's side of the vehicle and PO Glynn approached the passenger side. As he approached the vehicle PO Murray noticed § 87(2)(b) making "numerous furtive movements," which he described as "dipping down" toward the front and leaning back toward the back seat.

When PO Murray reached § 87(2)(b)'s window, he tapped it and he asked § 87(2)(b) for his license and registration. § 87(2)(b) however, would not acknowledge him and refused to roll down the window. § 87(2)(b) was screaming toward the passenger end of the car. PO Murray could not hear what § 87(2)(b) was saying because the windows were rolled up. PO Murray tapped on the window a few more times. § 87(2)(b) then looked at PO Murray and made a few more motions under his seat with his arms. PO Murray then opened the car door and asked § 87(2)(b) for his license and insurance. At this time PO Glynn came around to the driver's side. § 87(2)(b) then began shouting racial epithets at PO Murray. § 87(2)(b) appeared extremely hostile. PO Murray asked him to step out of the vehicle. § 87(2)(b) refused and told PO Murray "fuck you" and called him a "white motherfucker." PO Murray then placed his hand on § 87(2)(b)'s arm and asked him to step out again. § 87(2)(b) then stepped out of the car. § 87(2)(b) was breathing heavily and his eyes were bulging. He continued screaming and yelling racial slurs. He did not, however, make any threatening gestures toward PO Murray.

As § 87(2)(b) stepped out, PO Murray saw in the backseat a bag of boxing gear with gloves. PO Murray asked § 87(2)(b) about the boxing gloves and § 87(2)(b) told him that he was a former Golden Gloves fighter. PO Murray could not remember what exactly he said to § 87(2)(b) about the gloves. PO Murray could see that the bag contained not only gloves but handwraps as well. Based on this and the fact that § 87(2)(b) heavily outweighs him and is taller than him, PO Murray determined that he should handcuff § 87(2)(b). PO Murray was concerned that § 87(2)(b) might hit him. After handcuffing § 87(2)(b) PO Murray asked § 87(2)(b) if he had any weapons or anything sharp that was going to stick him. However, he did not ask him specifically if he had any guns or drugs. He then patted him down and squeezed his pockets in an effort to determine if § 87(2)(b) had any weapons. PO Murray did not reach inside § 87(2)(b)'s pockets. PO Murray explained to § 87(2)(b) that he was handcuffing and detaining him for his safety. § 87(2)(b) demanded that PO Murray issue him a summons or take him to jail. PO Glynn took § 87(2)(b) to the back of the car. PO Murray did not recall hearing § 87(2)(b) and PO Glynn exchange words. He did recall that § 87(2)(b) was yelling and screaming throughout, but that most of § 87(2)(b)'s attention appeared to be directed at him and not his partner.

PO Murray then searched the areas in the car where § 87(2)(b) appeared to be reaching and making furtive movements. From the front driver's side door, which was opened, PO Murray leaned over the front seat of the vehicle and with his flashlight looked under the front and back seats. He also looked on top of

the backseat, but all he saw were the boxing gloves and some clothing. He did not touch the gloves. He did not look inside the car from any other doors or angles. He did not lean in far enough to feel along the backseat with his hand and did not reach under the front seat. He also did not open the hatchback or trunk area of the vehicle. PO Murray stated that he was looking for weapons, but he did not find anything.

Outside of the vehicle, § 87(2)(b) continued to yell and make a scene, so after he was done looking inside the car, PO Murray and PO Glynn both took § 87(2)(b) who had been sitting on the curb near the back of his vehicle, to the backseat of their vehicle. Once he was placed in the vehicle, however, § 87(2)(b) immediately quieted down. PO Murray issued § 87(2)(b) a summons for expired registration and PO Glynn issued § 87(2)(b) a summons for § 87(2)(b). Initially the officers did not have VTL summonses on them, so they radioed for a marked patrol car to come to the scene and provide them. A marked patrol car responded, but PO Murray did not recall who was in the vehicle. After the officers wrote the summonses they let § 87(2)(b) out of the car and took his handcuffs off. After § 87(2)(b) got into his car the officers left the scene.

PO William Glynn

On January 28, 2008 PO William Glynn gave the following statement at CCRB (encl. 8a-8d). PO Glynn is a § 87(2)(b)-old, 6'1 225-pound, white male with brown hair and brown eyes. PO Glynn did not have any memo book entries regarding the incident described below. PO Glynn wrote a summons for § 87(2)(b) (10a-10B). In the narrative he stated that § 87(2)(b) refused to lower the passenger side window and "became irate when asked to step out of the vehicle following several furtive movements." It also states that § 87(2)(b) shouted racial epithets at him, causing "public alarm." The summons confirms that a warrant check was conducted for § 87(2)(b) as well.

On September 1, 2008 at approximately 12:00 AM in the vicinity of 7th Avenue between West 17th Street and West 18th Street, PO William Glynn and PO Michael Murray, both of Manhattan South Anti Crime, were doing patrol and running license plates. They ran the plates of a vehicle heading southbound on 7th Avenue. The results showed that the vehicle's registration had expired. When asked how they selected the plates, PO Glynn explained that the officers typically drive in a car that has a license plate reader and selects cars randomly, but on the night in question they did not have such a vehicle. PO Glynn was therefore running the plates himself. He stated that he typically runs as many as he can at a time and selects them randomly. The officers pulled the vehicle over and approached it.

As they approached it the driver, § 87(2)(b) appeared to be making some movements inside the car. PO Glynn could not say where § 87(2)(b) was moving or whether he was reaching under the seat. He did not like the movements that § 87(2)(b) was making. The car had tints on the windows so PO Glynn could not see clearly what was going on inside of the car. PO Glynn approached the passenger side and PO Murray approached the driver's side. PO Murray spoke to the driver and PO Glynn motioned for § 87(2)(b) to roll down the passenger window. § 87(2)(b) looked at him and refused. PO Glynn was concerned because it was a large SUV and he wanted to be able to hear the conversation taking place between § 87(2)(b) and PO Murray.

PO Glynn and PO Murray then went back to their vehicle. PO Murray had § 87(2)(b)'s license. At that time PO Glynn believes that PO Murray may have ran § 87(2)(b)'s license. The two officers also discussed what had taken place at § 87(2)(b)'s car. PO Murray told PO Glynn that § 87(2)(b) was very upset. Based on § 87(2)(b)'s movements and his demeanor they determined that they should ask § 87(2)(b) to step out of the car. They resumed their former positions at § 87(2)(b)'s car and PO Murray asked him to step out. PO Glynn could see that § 87(2)(b) was very animated and angry. PO Glynn then decided to step around to the driver side of the car. § 87(2)(b) told them, "Fuck you, I'm not stepping out." After a number of requests, either PO Murray or PO Glynn opened the car door and § 87(2)(b) voluntarily stepped out. Once he stepped out, he was livid and immediately began screaming and yelling. PO Glynn then told § 87(2)(b) that he needed to frisk him to make sure he did not have anything sharp or dangerous on him. PO Glynn patted § 87(2)(b) with an open hand over his waste line and pockets. He denied searching inside § 87(2)(b)'s pockets, but he did lift up his shirt to look along his waist. PO Glynn

stated that § 87(2)(b) did not actively resist the frisk. PO Glynn could not say positively whether or not PO Murray frisked § 87(2)(b). He stated that they might have both frisked one side. He stated, "I know I frisked him." PO Glynn asked § 87(2)(b) if he had any weapons on him. He did not recall asking § 87(2)(b) if he had any drugs on him. Based on the discrepancy in their sizes, the fact that § 87(2)(b) was "extremely animated," and the movements he was making in the car earlier, PO Glynn and PO Murray handcuffed him. § 87(2)(b) continued yelling and screaming racial epithets at the officers. PO Glynn led § 87(2)(b) to the back of the vehicle. Meanwhile, PO Murray leaned into the car from the front driver side door and searched the area around where § 87(2)(b) had been sitting to see if he had stashed anything. PO Glynn could not state how far PO Murray leaned into the car or whether or not he searched over the backseat. He stated that he did not have a constant view of his partner while he conducted the search.

While at the back of the vehicle PO Glynn asked § 87(2)(b) to sit on the bumper. § 87(2)(b) responded, "Fuck you, I'm not sitting on the bumper." PO Glynn asked § 87(2)(b) six times to sit on the bumper. § 87(2)(b) however, ambled about the back of the vehicle while he was handcuffed. PO Glynn also believed that he told § 87(2)(b) that he could be taken to jail for disorderly conduct at that time. PO Glynn then guided him to the curb and § 87(2)(b) sat down. PO Glynn stated that he put one hand on his arm and another on his shoulder. He did not have to use his knee to bring § 87(2)(b) to the curb. § 87(2)(b) was not actively resisting at this time, but he was not cooperating.

While on the curb § 87(2)(b) continued to yell racial slurs at the officers, referring to them as "white motherfuckers" and telling them that they had no right to pull him over. A crowd began to gather along the sidewalk near the curb where § 87(2)(b) was sitting. PO Glynn felt that this was creating public alarm. PO Glynn did not become upset while § 87(2)(b) was screaming at him on the curb.

PO Glynn made the decision to take § 87(2)(b) to their patrol car. Once inside the vehicle, § 87(2)(b) immediately calmed down. PO Glynn did not get into the car with § 87(2)(b) and he did not say anything to § 87(2)(b) once he had been placed in the car. PO Glynn stated that he never struck § 87(2)(b) in the face or became involved in a physical altercation with him. PO Glynn stated he wrote § 87(2)(b) a § 87(2)(b). PO Murray wrote § 87(2)(b) a summons for § 87(2)(b). PO Glynn stated that § 87(2)(b) did not mention anything to him about boxing and that he did not see that § 87(2)(b) had any boxing gloves in his vehicle. He also stated that he did not tell § 87(2)(b) that he could "take him" or "kick his ass."

NYPD Documents

Roll Call (encl. 9a-9b)

The Manhattan South Anti-Crime roll call indicates that PO Murray and PO Glynn began their tour at 6:00 PM on August 31, 2007 and ended their tour at 2:00 AM on September 1, 2007.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

_____.

Officer History (encl. 2a-2c)

PO Glynn has been with the NYPD for six years and has one substantiated CCRB complaint. In CCRB case 200605789 an allegation that PO Glynn performed a strip-search was substantiated and the board recommended charges. The NYPD prosecuted the case and PO Glynn received command discipline. PO Murray also has a substantiated complaint. In CCRB case 200405577, allegations that PO Murray questioned, threatened to arrest, and summonsed an individual were substantiated. The NYPD prosecuted the case and he received instructions.

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) identified PO Murray and PO Glynn by name. He stated that he read the officers' names off the summonses they issued to him. Copies of the summonses state the name, rank, shield and tax registry numbers of PO Glynn and PO Murray. § 87(2)(b) also provided accurate physical descriptions of both officers.

Undisputed Facts

On September 1, 2007 PO Glynn and PO Murray stopped § 87(2)(b)'s vehicle at the intersection of 7th Avenue and 17th Street. The officers asked § 87(2)(b) to step out of the car, but § 87(2)(b) initially refused. One of the officers opened § 87(2)(b)'s door and he stepped out. The officers then frisked § 87(2)(b). PO Glynn escorted § 87(2)(b) to the back of the vehicle and PO Murray searched the vehicle from the driver's seat. § 87(2)(b) became upset and belligerent so PO Glynn asked him to sit on the curb. § 87(2)(b) was then placed in the patrol car while the officers wrote him summonses for § 87(2)(b).

Disputed Facts

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Assessment of Evidence

PO Murray stated that when he initially approached § 87(2)(b)'s vehicle, § 87(2)(b) made numerous furtive movements before and after he reached the car. He also stated that § 87(2)(b) completely ignored his orders to open the window, refused to acknowledge his presence at the driver's side window, and began screaming in the direction of PO Glynn who was on the passenger side. § 87(2)(g)
PO Glynn and § 87(2)(b) § 87(2)(g) both agree that after approaching § 87(2)(b)'s car PO Murray engaged in a conversation with § 87(2)(b) and obtained his license.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
The officers then went back to their patrol car to run § 87(2)(b)'s license. § 87(2)(b) stated that he had obtained his license and registration before the officers reached the car. § 87(2)(g)
§ 87(2)(b) PO Murray described § 87(2)(b) making a "dipping down motion" toward the front of his seat. PO Glynn describes no such motion. In fact, he stated that the windows were tinted, making it unclear for him to make out anything other than the fact that § 87(2)(b) was moving in the car. He could offer no description of the movements other than that he did not like them.

§ 87(2)(g)
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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) stated that he was frisked as soon as he stepped out of the car. PO Murray stated that he handcuffed § 87(2)(b) when he noticed his size and saw a pair of boxing gloves in the backseat. PO Glynn, however, stated that § 87(2)(b) was frisked and then handcuffed. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A – PO Michael Murray stopped the car in which § 87(2)(b) was an occupant.
Allegation B – PO William Glynn stopped the car in which § 87(2)(b) was an occupant.

PO Murray and PO Glynn stated that after running § 87(2)(b)'s license plate they determined that he had expired registration. § 87(2)(b) acknowledged that his registration had expired at the time of the incident.

§ 87(2)(g)

Allegation C – PO Michael Murray frisked § 87(2)(b)

Allegation D – PO William Glynn frisked § 87(2)(b)

PO Murray stated that he handcuffed § 87(2)(b) because he was bigger than him and trained as a boxer. PO Glynn stated that needed to make sure § 87(2)(b) did not have any weapons. Both officers indicate

that their justification for frisking and detaining § 87(2)(b) was fear for their safety. According to Barry Kamins' *New York Search and Seizure*, a police officer "is not permitted to frisk the driver or other occupants of a car unless he has a reasonable basis for suspecting that the individual is armed and may be dangerous." In addition, "if the officer observes a bulge in the motorist's pocket that resembles a weapon, a frisk will be lawful" (encl. 1a). PO Murray described § 87(2)(b) making a "dipping" motion toward the front of his seat and reaching toward the back of his seat. PO Glynn could not state clearly what he saw § 87(2)(b) doing. § 87(2)(g)

§ 87(2)(b) Kamins notes that in *People v. Carvey*, "[t]he Appellate Division, First Department, has stated that 'an act of bending or placing something beneath a car seat is in and of itself an innocuous gesture.'" § 87(2)(g)

Allegation E – PO Michael Murray searched § 87(2)(b)

Allegation F – PO William Glynn searched § 87(2)(b)

§ 87(2)(b) alleged that both PO Murray and PO Glynn reached into his pockets. PO Glynn and PO Murray denied searching § 87(2)(b) § 87(2)(g)

Allegation G – PO Michael Murray questioned § 87(2)(b)

Allegation H – PO William Glynn questioned § 87(2)(b)

According to Kamins' *New York Search and Seizure* when an officer stops a vehicle he can "conduct a brief inquiry related solely to the basis of the stop. Thus, if the officer stops a vehicle for a traffic infraction, the inquiry must be limited in scope to that subject; there is not justification for questioning the driver about unrelated matters" (encl. 1a-1c). § 87(2)(g)

Allegation I – PO William Glynn threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that during his encounter with PO Glynn and PO Murray he became upset over being asked to sit on the bumper and, eventually, on the curb. § 87(2)(b) also acknowledged that he was cursing at PO Glynn when he was escorted behind the vehicle and that a crowd did gather to see what was going on. PO Glynn told § 87(2)(b) that he could be arrested for disorderly conduct. § 87(2)(g)

Allegation J – PO Michael Murray searched the car in which § 87(2)(b) was an occupant.

In *People v. Torres*¹ the Court of Appeals established that "any search during an investigative stop must be based on a reasonable belief that the suspect might gain control of a weapon" (encl. 1b) In that case the court rejected the idea that an officer may conduct a search "on the theoretical basis that a suspect could re-enter the car and gain control of a weapon" (encl. 1c) PO Murray stated that he saw § 87(2)(b) make

¹ 74 NY2d 224 (1989)

numerous furtive movements inside of his car. He stated that he searched the driver's side area of the car to determine what § 87(2)(b) was reaching for. § 87(2)(g)

Allegation K – PO William Glynn threatened § 87(2)(b) with the use of force.

Allegation L – PO William Glynn used physical force against § 87(2)(b)

§ 87(2)(b) also stated that PO Glynn told him that he could “kick his ass.” He also alleged that PO Glynn took him into the patrol car and slapped him. PO Glynn denied this. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: